

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Martin S. Gottesfeld, pro se,  
Plaintiff  
- against -  
Hugh J. Hurwitz, et al,  
Defendants

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC#  
DATE FILED: 10-15-19

Case No.: 18-cv-10836-PGG-GWG

MOTION FOR EXTENSION OF TIME TO FILE

Plaintiff Martin S. Gottesfeld (herein "plaintiff"), acting pro se, hereby moves The Honorable Court for an extension of time to file his opposition to the defendants' motion to dismiss (D.E. 51). The plaintiff's opposition is currently due on October 15th, 2019 (please see D.E. 73 at 1). The plaintiff now believes he could mail (and therefore file pursuant to the prison-mailbox rule of Houston v. Lack, 487 US 266 (1988)) his opposition on or before Tuesday, October 29th, 2019.

In support of this motion, the plaintiff herewith provides and moves The Honorable Court to take notice, pursuant to Fed. R. Evid. 201(c)(2), of Exhibit 1, Declaration of Martin S. Gottesfeld, October 2nd, 2019, 2 pages; and Exhibit 2, written request of Martin S. Gottesfeld to FBOP FCI Terre Haute CMU unit team regarding commissary closure, Sunday, August 25th, 2019, 1 page.

Respectfully mailed on Wednesday, October 2nd, 2019 (and filed thereat pursuant to Houston v. Lack, 487 US 266 (1988)) in an envelope bearing sufficient pre-paid first-class U.S. postage affixed and U.S. Postal Service tracking number 9114 9023 0722 4072 3901 86, handed to Ms. J. Wheeler of the FCI Terre Haute CMU unit team in her official capacity as an agent for the defendants,

by: 

Martin S. Gottesfeld, pro se  
Reg. No.: 12982-104  
Federal Correctional Institution  
P.O. Box 33  
Terre Haute, IN 47808



CERTIFICATE OF SERVICE

I, Martin S. Gottesfeld, hereby certify that on Wednesday, October 2nd, 2019, I mailed a copy of the foregoing document to counsel for the defendants in the above-captioned case by handing such copy in an envelope bearing sufficient pre-paid first-class U.S. postage affixed to Ms. J. Wheeler of the FCI Terre Haute CMU unit team for mailing in her official capacity as an agent for the defendants.

by:



Martin S. Gottesfeld, pro se

Exhibit 1

Declaration of Martin S. Gottesfeld:

I, Martin S. Gottesfeld, do hereby affirm that the following is true and accurate to the best of my knowledge, information, and belief on this 2nd day of October, 2019, and I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. My name is Martin S. Gottesfeld and I am the sole plaintiff in the case of 18-cv-10836-PGG-GWG pending before The Honorable U.S. District Court for The Southern District of New York (hereafter "the case").

2. Since I filed my last motion for an extension of time to oppose the defendants' motion to dismiss the case on Monday, August 5th, 2019 (D.E. 67), the commissary at the FCI Terre Haute upon which I rely for my typing supplies and postage was closed for two (2) weeks.

3. I submitted a written request before the closure specifically citing my need to continue litigating the case, along with other matters, ahead of the commissary closure and asked for permission to buy extra typing supplies ahead of the commissary closure so that I could continue litigating.

4. My unit team approved an extra quantity of twenty (20) fifty-five (55) cent forever stamps, half of what I would have ordinarily purchased during the two-(2)-week closure, and referred the remainder of my request for typing supplies to the FCI Terre Haute commissary department, which denied the remainder of my request in its entirety.

5. In the time since I filed my last motion for an extension of time to oppose the defendants' motion to dismiss, I have also had to file the following:

- Six (6) time-sensitive BP-11s, bearing U.S. Postal Service (USPS) tracking numbers:
  - 9114 9023 0722 4072 3908 96
  - 9114 9023 0722 4072 3908 65
  - 9114 9023 0722 4072 3908 41
  - 9114 9023 0722 4072 3908 03
  - 9114 9023 0722 4072 3901 93
  - 9114 9023 0722 4291 7995 48
- One (1) time-sensitive BP-10, bearing USPS tracking number: 9114 9023 0722 4293 0879 33
- Two (2) time-sensitive Form 95s, bearing USPS tracking numbers:
  - 9114 9023 0722 4293 0882 68
  - 9114 9023 0722 4293 0882 82
- One (1) urgent letter to the Office of the Inspector General (OIG) for the U.S. Department of Justice regarding a matter of potential life-or-death, bearing USPS tracking number: 9114 9023 0722 4293 0880 39.
- One (1) time-sensitive notification of a qui tam action, bearing USPS tracking number: 9114 9023 0722 4293 0883 12.
- One (1) time-sensitive declaration in support of appointment of counsel for an inmate survivor of decades of institutionalized FBOP abuse, bearing USPS tracking number: 9114 9023 0722 4293 0884 42.
- Two (2) time-sensitive supplemental preliminary replies with The Massachusetts Middlesex County Superior Court regarding the denial of the services of a notary public here at the FCI Terre Haute CMU, bearing USPS tracking numbers:
  - 9114 9023 0722 4293 0880 53
  - 9114 9023 0722 4072 3901 55
- Seven (7) other time-sensitive filings in the instant case, bearing

USPS tracking numbers:

- 9114 9023 0722 4293 0883 05
  - 9114 9023 0722 4293 0884 66
  - 9114 9023 0722 4072 3901 79
  - 9114 9023 0722 4072 3908 58
  - 9114 9023 0722 4072 3908 10
  - 9114 9023 0722 4072 3908 27
  - 9114 9023 0722 4072 3908 89
- Five (5) time-sensitive pieces of privileged legal mail, bearing USPS tracking numbers:
- 9114 9023 0722 4293 0884 80
  - 9114 9023 0722 4293 0880 77
  - 9114 9023 0722 4072 3908 34
  - 9114 9023 0722 4291 7995 24
  - 9114 9023 0722 4291 7996 54
- Three (3) time-sensitive BP-9s
- Three (3) time-sensitive BP-8s
- Eleven (11) time-sensitive written requests for USPS tracking information in order to try to infer if the above reached their destinations in a timely manner (I note that notice of delivery does not in itself signify that items were delivered intact).
- And Fourteen (14) other time-sensitive written requests regarding a variety of matters, most of which affect my ability to litigate and/or the preservation of my rights.

6. My unit was locked down for a planned electrical power outage from 8:00 A.M. Tuesday, September 17th, 2019, until 8:00 A.M. Thursday, September 19th, 2019, and during this time the electronic law library and electronic typewriters were entirely unavailable. While I was able to do some journalistic writing in my cell, I was unable to research legal issues, send or receive mail, and type copy for the case and this set me further behind schedule.

7. As a proximate result of the above I am at least two (2) weeks behind schedule filing my opposition to the defendants' motion to dismiss the case.

8. I have made steady progress, however, despite the above, towards completing my opposition to the defendants' motion to dismiss the case in all aspects save one (1): The lack of access to relevant New York state rules, regulations, statutes, and state-Constitutional text specifically regarding patients' rights and state-guaranteed civil rights.

9. I am mailing this filing pursuant to Houston v. Lack, 487 US 266 (1988) in an envelope bearing sufficient pre-paid first-class U.S. postage affixed and U.S. Postal Service tracking number: 9114 9023 0722 4072 3901 86, handed to Ms. J. Wheeler of the FCI Terre Haute CMU unit team in her official capacity as an agent for the defendants in the case on Wednesday, October 2nd, 2019, or the next possible opportunity since I can only post mail during mail call for the unit and there is no freestanding "prison mailbox" for the CMU.

I declare and certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on Wednesday, October 2nd, 2019.

  
by: Martin S. Gottesfeld



Exhibit 2

To: CMU Unit Team  
From: Martin S. Gottesfeld (Reg. No.: 12982-104)  
Date: Sunday, August 25th, 2019  
Subject: Extra commissary stationery ahead of Sept. 16-29th closure?

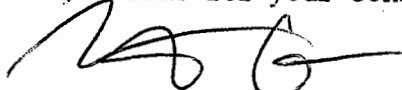
Salutations Unit Team,

On Friday, a bulletin appeared notifying the inmate population that commissary will be closed from Monday, September 16th through Sunday, September 29th.

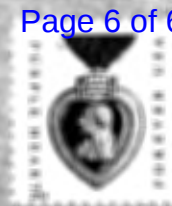
So that I can be prepared to continue litigating my direct appeal in the First Circuit (case numbers 19-1107 and others), my pending civil suit in Massachusetts Superior Court for Middlesex County (1881CV03461), my pending civil suit in The Southern District of New York (18-cv-10836-PGG), my motion to intervene in a civil case in The District of Colorado (18-cv-02328), and other pending court actions, as well as to continue my pursuit of FBOP administrative remedy procedures, may I please order the following extra supplies from commissary during the first two (2) weekly cycles in September?

- A total of six (6) extra copy cards to offset the six (6) copy cards I would normally order during the closure;
- A total of two (2) extra typewriter ribbons to offset the two (2) I would normally order during the closure;
- A total of two (2) extra typewriter erasing ribbons to offset the two (2) I would normally order during the closure;
- A total of twenty (20) extra manila envelopes to offset the twenty (20) I would normally order during the closure; and
- A total of \$62 of extra stamps to offset the \$22 of stamps that I would normally order during the closure plus another \$40 to avoid an additional such request in the future and duplicative effort by all involved;

My thanks for your consideration,



Martin S. Gottesfeld



PS TRACKING #



123 0722 4072 3901 86

☎ 12982-104 ☎

U S District Court  
Pro Se Clerk  
500 Pearl ST  
NEW YORK, NY 10007  
United States

Wednesday, October 2nd, 2019, Houston v. Lack, 487 US 266 (1988)

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